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Travelers Casualty and Surety Company
8 of America

9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 TRAVELERS CASUALTY AND SURETY
12 COMPANY OF AMERICA, a Connecticut
corporation,

13 Plaintiffs,

14 v.

15 BIG TOWN MECHANICAL, LLC, a Nevada
16 limited liability company; BIG TOWN
SERVICE, LLC, a Nevada limited liability
17 company; BIG TOWN MECHANICAL
CORP., a Nevada corporation; LIBERTY
18 DUCT, LLC, a Nevada limited liability
company; B.B.H., LLC, a Nevada limited
19 liability company; JAMES A. BARTON,
individually and as Trustee of THE J&H
20 BARTON FAMILY TRUST DATED
MARCH 8, 2000; KENNETH MCNULTY,
21 individually and as Trustee of THE
MCNULTY FAMILY TRUST DATED
22 FEBRUARY 8, 2006; JAMIE MCNULTY
individually and as Trustee of THE
23 MCNULTY FAMILY TRUST DATED
FEBRUARY 8, 2006; THE J&H BARTON
24 FAMILY TRUST DATED MARCH 8, 2000;
MCNULTY FAMILY TRUST DATED
25 FEBRUARY 8, 2006,

26 Defendants.

CASE NO.: 2:12-cv-02072-APG-VCF

**ORDER GRANTING TRAVELERS
CASUALTY AND SURETY COMPANY
OF AMERICA'S MOTION FOR
ATTORNEY'S FEES AND COSTS**

ORDER

Before the Court is Plaintiff Travelers Casualty and Surety Company of America's ("Travelers") Motion for Attorney's Fees and Costs.

On October 21, 2013, Travelers filed a Motion for Attorney Fees and Costs, supporting affidavits of John Fouhy and David R. Johnson, and a Notice of Lodgment, along with a Bill of Costs (collectively, "Motion"). (Dkt nos. 35 - 39). The Motion was filed against Defendants Big Town Service, LLC, Big Town Mechanical Corp., Liberty Duct, LLC, James A. Barton individually and as trustee of the J&H Barton Family Trust Dated March 8, 2000, Kenneth McNulty individually and as trustee for the McNulty Family Trust Dated February 8, 2006, Jamie McNulty individually and as trustee of the McNulty Family Trust Dated February 8, 2006, the J&H Barton Family Trust Dated March 8, 2000, and the McNulty Family Trust Dated February 8, 2006 ("Defendants").¹

On October 8, 2013, this Court issued its Order Granting Travelers Casualty and Surety Company of America's Motion for Summary Judgment (dkt no. 32) ("MSJ Order"). In the MSJ Order, the Court determined that the general agreement of indemnity signed by each of the Defendants in favor of Travelers is enforceable against the Defendants, and each of them. MSJ Order, p. 5-6.

Further, the Court stated in the MSJ Order:

IT IS FURTHER ORDERED that Travelers shall submit for the Court's consideration a motion for attorney's fees within fourteen (14) days of the entry of this order, in accordance with Local Rule 54-16.

¹ After Travelers filed suit, two of the named defendants, Big Town Mechanical, LLC and BBH, LLC, filed for bankruptcy. *See In re Big Town Mechanical, LLC*, U.S. Bankruptcy Court for the District of Nevada Case No. BK-13-14209-MKN; and *In re BBH, LLC*, U.S. Bankruptcy Court for the District of Nevada Case No. BK-13-14236-MKN. Because of their bankruptcy filings, Travelers does not seek recovery against Big Town or BBH, LLC in the instant action. For the same reason, the Court does not address Big Town or BBH, LLC in this Order.

1 MSJ Order, p. 15.

2 The Court has considered Travelers' Motion, the documents submitted in support thereof,
3 and the pleadings and papers on file before the Court. The Court notes that Defendants have
4 failed to oppose the Motion. Pursuant to Local Rule 7-2(d), Defendants' failure to oppose the
5 Motion constitutes a consent to the granting of the Motion. Nevertheless, this Court has
6 evaluated the merits of the Motion, including reviewing each of the factors identified in *Brunzell*
7 *v. Golden Gate Nat'l Bank*, 85 Nev. 45, 349, 455 P.2d 31, 33 (1969), and having done so,
8 GRANTS the Motion in its entirety, awarding Travelers \$112,737.00 in attorney's fees against
9 each of the Defendants, jointly and severally.
10

11 Further, the Clerk of the Court, having reviewed the Bill of Costs, and supporting
12 documentation, submitted by Travelers in connection with its Motion, has taxed costs in the
13 amount of \$5,497.10 against the Defendants. (Dkt. No. 41).
14

15 ACCORDINGLY, IT IS HEREBY ORDERED ADJUDGED AND DECREED that,
16 pursuant to Nevada law, the subject general agreements of indemnity, the MSJ Order, and Local
17 Rule 7-2(d), Travelers is awarded attorney's fees and costs totaling \$118,234.10 (attorney's fees -
18 \$112,737.00 + costs - \$5,497.10) against each of the Defendants, jointly and severally.
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20 DATED: November 27, 2013 at 3:45 p.m.

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22 _____
23 UNITED STATES DISTRICT JUDGE
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28

1 *Order Prepared By:*

2 WATT, TIEDER, HOFFAR
3 & FITZGERALD, L.L.P.

4
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